

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Carrier Branch**

**RESOLUTION T-16659
July 17, 2002**

R E S O L U T I O N

RESOLUTION T-16659. CITIZENS TELECOMMUNICATIONS COMPANY OF TUOLUMNE (CTC-TUOLUMNE) (U-1023-C). REQUEST FOR AUTHORITY TO ALLOW A PROMOTIONAL FILING TO BE EFFECTIVE IN NO LESS THAN FIVE DAYS AFTER REGULAR NOTICE.

BY ADVICE LETTER NO. 96, FILED ON APRIL 12, 2002.

SUMMARY

This Resolution authorizes Citizens Communications Company of Tuolumne's (CTC-Tuolumne) promotional filings to be effective in no less than five days after regular notice.

BACKGROUND

Commission Resolution T-14361 dated April 24, 1991, granted CP National Corporation (CP National) and Tuolumne Telephone Company (Tuolumne) authorities for promotional offering.

Commission Decision (D). 95-07-037 granted CTC-Tuolumne, a California corporation previously formed for the purpose of operating the telephone properties owned by Tuolumne, authority to purchase and acquire the telecommunications property and assets of Tuolumne.

Currently, CTC-Tuolumne has tariff schedule A-6, Promotional Campaigns, on file with the Commission.

In Advice Letter No. 96, filed April 12, 2002, CTC-Tuolumne requests additional authority to allow a promotional filing to be effective in no less than five days after regular notice.

Because of the merger of Tuolumne and CTC-Tuolumne, the following Special Conditions from Commission Resolution T-14361 which granted promotional authority to Tuolumne will be restated:

1. All services approved by Advice Letter filings and listed in CTC-Tuolumne tariff schedule A-6 may be offered during a promotional period.
2. Promotional campaigns, listed in CTC-Tuolumne tariff schedule A-6 are the subject of Rules and Regulations in the Utility's Schedules.
3. The utility may promote select services which result from new or upgraded central office capability and for offerings of new or existing optional services.
4. Promotional campaigns in CTC-Tuolumne tariff schedule A-6 shall be offered at rates listed above (i.e., non-recurring charges are discounted or waived).
5. The promotional campaign duration shall not exceed 120 days per offering. All promotional campaigns will be approved by Advice Letter filings which shall include but not be limited to:
 - service selection
 - non-recurring charges
 - promotional area
 - duration
 - customer notification plan.

The utility will notify TD by a five-day memorandum notice of all repeat or extended promotions. The authorization for repeat or extended promotions will be limited to 120 days. No promotion, whether repeated or extended will last for more than 240 consecutive days: 120 days duration approved through an advice letter filing and an additional 120 days extension of time to either repeat or extended promotions approved via the five-day notice.

The utility will wait 60 days after a promotion has run for 240 consecutive days before filing to offer the same promotion again.

6. The promotional pricing of services shall be subject to and offered only where facilities and operating condition permit.
7. The promotional campaign shall be limited to serving central offices designated by the utility.
8. The method of customer notification of the promotional campaign is at the option of the utility.

9. During the promotional period, the customer will be fully informed of all the terms and conditions of the promotional offering, and the company will contact the customer regarding the retention or discontinuance of the service prior to the end of the promotional period. This contact will inform the subscriber that if they wish to retain the promoted service, they need do nothing; and if they wish to discontinue it, they need to call their Business Office to do so. Samples of the notification materials will be provided to the Commission when proposing the promotion.
10. The post-implementation analysis on each campaign will be submitted to the Commission within 60 days after the conclusion of the promotional period and shall include the following:
 - Customer response to the campaign;
 - All customer complaints or concerns;
 - Profitability of the campaign including all revenues and expenses related to the service promoted.
11. Promotional campaign is a provisional tariff offering will terminate 24 months after the effective date of its tariff, unless cancelled, changed, or extended.
12. Promotional campaigns are to be included in tariff schedule A-6 for CTC-Tuolumne.

NOTICE/PROTEST

AL No. 96 was filed on April 12, 2002, and appeared in the Commission Daily Calendar of April 15, 2002. CTC-Tuolumne states that copy of AL No. 96 has been sent to interested utilities and/or parties. Telecommunications Division (TD) has received no protest to AL No. 96.

DISCUSSION

A. The Terms of Commission Authorization

Resolution T-14361, dated April 24, 1991, authorized Tuolumne to waive or discount specific tariffed charges during a promotional period. Once the Commission authorizes and adopts a promotional program by resolution, no further Commission resolutions should be required for promotional offerings which meet the terms and conditions of that authorization. Such subsequent filings can be made as advice letters which will go into effect on regular notice without a Commission resolution.

Similar authority has been granted to Pacific Bell in Resolution T-14174, dated October 12, 1990, and Contel Service Corporation in Resolution T-14231, dated February 21, 1991.

CTC-Tuolumne, in Advice Letter No. 96, requests additional authority to allow a promotional advice letter filings to be effective in no less than five days after regular notice. This would be consistent with Commission Resolution T-16091, dated December 3, 1997, granted to Sierra Telephone Company authority to provide promotional offerings in the same manner.

B. Definition of Legitimate Service/Offerings

Public Utilities (P.U.) Code Section 453(c) prohibits public utilities from “establish(ing) or maintain(ing) any unreasonable difference as to rates, charges, services, facilities, or in any other respect, either as between localities or as between classes of services.” In order to satisfy this statute, promotional offerings should be available to all customers using equivalent services and facilities, regardless of class or locale. Therefore, promotional offerings (reduced or waived non-recurring charges) are appropriate when offered to all customers or when a service is newly available, either throughout the utility’s intrastate service territory or due to the upgrade of the utility’s serving facilities.

Market trials and technology tests should continue to require separate evaluation and authorization as currently required, since by definition they are conducted prior to services being made available throughout the utility’s service territory and already constitute a “deviation” from the utility’s tariff.

In considering whether a “service” is appropriate for promotion, we should consider the definition of “new service” which we adopted in D.87-07-017, D.88-12-091, and D.90-11-029. Therein, we have agree with AT&T’s definition of new service as “an offering which customers perceive as a new service and which has a combination of technology, access, features or functions that distinguishes it from any existing services”. (D.88-12-091 at p. 53). We adopted this definition with the qualifier that “repricing or repackaging of an existing service would not be considered a new service” and observed that “the definition does not classify an optional calling plan which discounts existing service as a new service” (Id. at pp. 53-54).

The Commission by Resolution T-15613, dated January 24, 1995 granted Pacific’s request that promotions go into effect on 5-days notice with a normal 20-day protest period through an advice letter filing.

TD has reviewed CTC-Tuolumne Advice Letter No. 96. TD concludes that CTC-Tuolumne’s request for additional authority to allow its promotional advice letter

filings become effective in no less than five days after regular notice is reasonable. TD recommends that the Commission approve this filing.

The draft resolution of the Telecommunications Division in this matter was mailed to the parties in accordance with PU Code Section 311 (g)(1). No comments were filed on this resolution.

Commission approval is based on the specifics of this Advice Letter and does not establish a precedent for the contents of future filings.

C. Conclusion

Authorizing the promotional pricing of optional services on a five-day notice period will allow customers the benefit of making a quicker informed decision based on personal use of the service. These promotional advice letter filings will still be subject to a normal 20-day protest period.

Each promotion-specific advice letter should include the following elements, in order to avoid discriminatory treatment and mitigate any negative impact on subscribers or the general ratepayers:

1. The overall criteria for waiving or discounting the non-recurring charge during the promotional program and the financial impacts on the entire service to reflect the revenue required to recover the cost of the promotion.
2. The start and end dates of the promotion(s).
3. The program for customer notification/participation.
4. Samples of the notification materials.
5. Any limitations or safeguards (e.g., customer selection, rate structure, and program monitoring).
6. The tracking (post-implementation analysis) plan.

In addition, CTC-Tuolumne should provide TD with a financial impact report within 60 days of the ending date of each promotional offering and receive TD approval before the next promotional offering commence. This report should separately specify the following information:

1. The non-recurring revenue loss from the promotion;
2. the non-recurring costs of the promotion;
3. the recurring revenue gain from new customers;

4. the recurring expenses;
5. the number of subscribing customers;
6. the record of any complaints;
7. the record of how long customers retain the service during the promotional period.

The financial impact report from the last promotional offering should be approved by TD before the utility makes another promotional offering.

FINDINGS

1. Once the Commission authorizes and adopts a promotional program by resolution (i.e., via these advice letters), no further Commission resolutions should be required for promotional offerings which meet the terms and conditions of that resolution. Such subsequent filings can be made as advice letters which will go into effect on regular notice without a Commission resolution.
2. In order to satisfy P.U. Code Section 453 (c), promotional offerings should be available to all customers using equivalent services and facilities, regardless of class or locale.
3. Promotional offerings (reduced or waived non-recurring charges) are appropriate when offered to all customers or when a service is newly available, either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities.
4. Market trials and technology tests should continue to require separate evaluation and authorization as currently required, and should not be included in the promotional program.
5. In considering whether a "service" is appropriate for promotion, we should consider the definition of "new service" we adopted in D.87-07-017, D.88-12-091, and D.90-11-029.
6. We adopted this definition with the qualifier that "repricing or repackaging of an existing service would not be considered a new service" and observed that "the definition does not classify an optional calling plan which discounts existing service as a new service". (Id. at pp. 53-54).
7. Authorizing the promotional pricing of optional services on a five-day notice period for CTC-Tuolumne will allow the utility to have the same promotional authority granted to other smaller local exchange carriers.

8. Each promotion-specific advice letter should include the following elements:
 - a) The overall criteria for waiving or discounting the non-recurring charge during the promotional program and the financial impacts on the entire service to reflect the revenue required to recover the cost of the promotion.
 - b) The start and end dates of the promotion(s).
 - c) The program for customer notification/participation.
 - d) Samples of the notification materials.
 - e) Any limitations or safeguards (e.g., customer selection, rate structure, and program monitoring).
 - f) The tracking (post-implementation analysis) plan.
9. Advice letters which comply with the conditions enumerated in the Findings of this resolution should become effective on regular notice, which is no less than five days.
10. The financial impact report required on each promotional offering should be provided to TD within 60 days of the ending date of each promotion and receive TD approval before the next promotional offering is made. This report should include the following details:
 - a) The non-recurring revenue loss from the promotion;
 - b) the non-recurring costs of the promotion;
 - c) the recurring revenue gain from new customers;
 - d) the recurring expenses;
 - e) the number of subscribing customers;
 - f) the record of any complaints;
 - g) the record of how long customers retain the service during the promotional period.
11. The financial impact report on each promotional offering should be approved by TD before the utility initiates another offering.
12. Commission Resolution T-14361 dated April 24, 1991, granted CP National Corporation and Tuolumne Telephone Company authorities for promotional offering.

13. Commission Decision (D). 95-07-037 granted Citizens Telecommunications Company of Tuolumne authority to purchase and acquire the telecommunications property and assets of Tuolumne Telephone Company.
14. Currently, CTC-Tuolumne has tariff schedule A-6, Promotional Campaigns, on file with the Commission.
15. Commission Resolution T-16091, dated December 3, 1997, granted to Sierra Telephone Company authority to have promotional advice letter filings become effective in no less than five days after regular notice.
16. In Advice Letter No. 96, filed April 12, 2002, CTC-Tuolumne requests additional authority to allow a promotional filing to be effective in no less than five days after regular notice.
17. TD has reviewed CTC-Tuolumne Advice Letter No. 96. TD concludes that CTC-Tuolumne's request for authority to have promotional advice letter filings become effective in no less than five days after regular notice is reasonable. TD recommends that the Commission approve this filing.
18. CTC-Tuolumne is required to notify TD by a five-day memorandum notice of all repeat or extended promotions. The authorization for repeat or extended promotions will be limited to 120 days. No promotion, whether repeated or extended will last for more than 240 consecutive days: 120 days duration approved through an advice letter filing and an additional 120 days extension of time to either repeat or extended promotions approved via the five-day notice.
19. CTC-Tuolumne should wait 60 days after a promotion has run for 240 consecutive days before filing to offer the same promotion again.

THEREFORE, IT IS ORDERED that:

1. CTC-Tuolumne is granted authority to have promotional advice letter filings become effective in no less than five days after regular notice. These advice letter filings will also be subject to normal 20-day protest period.
2. CTC-Tuolumne is required to notify TD by a five-day memorandum notice of all repeat or extended promotions. The authorization for repeat or extended promotions will be limited to 120 days. No promotion, whether repeated or extended will last for more than 240 consecutive days: 120 days duration approved through an advice letter filing and an additional 120 days extension of time to either repeat or extended promotions approved via the five-day notice.

3. CTC-Tuolumne shall wait 60 days after a promotion has run for 240 consecutive days before filing to offer the same promotion again.
4. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 17, 2002. The following Commissioners approved it.

WESLEY M. FRANKLIN
Executive Director